

ASSEMBLY BILL

No. 985

Introduced by Assembly Member Torrico

February 18, 2005

An act to add Section 230.5 to the Labor Code, relating to labor.

LEGISLATIVE COUNSEL'S DIGEST

AB 985, as introduced, Torrico. Labor: military duty.

Existing law provides that employers may not discharge or in any manner discriminate against specified employees.

This bill would prohibit an employer discharging or discriminating against an employee for taking time off to perform active military duty as a member of the militia of this state, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 230.5 is added to the Labor Code, to
2 read:
3 230.5. (a) No employer shall discharge or in any manner
4 discriminate against an employee for taking time off to perform
5 active military duty as a member of the militia of this state prior
6 to January 1, 2011.
7 (b) This section shall not apply if the job held by the employee
8 upon return from leave no longer exists. However, this section
9 shall apply if the reason the job no longer exists is that the job
10 was outsourced.
11 (c) For purposes of this section, "outsourced" means the job
12 was replaced by a job located outside of the United States that

1 involves substantially similar duties or activities as the replaced
2 job. It shall be presumed that the first jobs outsourced were the
3 jobs held by employees described in subdivision (a).

4 (d) In addition to any other penalty imposed by law, an
5 employer shall pay any employee that is not reinstated upon
6 return from active duty an amount equal to six-months salary at
7 the rate that was paid immediately preceding the time off.

8 (e) Notwithstanding any other law to the contrary, any
9 amounts payable to the employee pursuant to the Unemployment
10 Insurance Code as a result of not being reinstated shall be
11 reduced by the amount of payments received pursuant to
12 subdivision (d).